

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 154

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION
FOR CERTAIN RECEIPTS FROM SERVICES OF LICENSED HEALTH
PRACTITIONERS; CREATING NEW DISTRIBUTIONS TO MUNICIPALITIES AND
COUNTIES; MODIFYING THE COUNTY EQUALIZATION DISTRIBUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Tax Administration Act is
enacted to read:

"[NEW MATERIAL] DISTRIBUTION TO MUNICIPALITIES FROM GROSS
RECEIPTS TAX--OFFSET FOR LICENSED HEALTH PRACTITIONER SERVICES
DEDUCTION.--

A. A distribution pursuant to Section 7-1-6.1 NMSA
1978 shall be made to a municipality in an amount, subject to
any increase or decrease made pursuant to Section 7-1-6.15 NMSA
1978, equal to the total deductions claimed pursuant to Section
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1 7-9-81.1 NMSA 1978 for the month by taxpayers from business
2 locations attributable to the municipality multiplied by the
3 sum of the combined rate of all municipal local option gross
4 receipts taxes in effect in the municipality for the month plus
5 one and two hundred twenty-five thousandths percent.

6 B. The distribution pursuant to Subsection A of
7 this section is in lieu of revenue that would have been
8 received by the municipality but for the deduction provided by
9 Section 7-9-81.1 NMSA 1978. The distribution shall be
10 considered gross receipts tax revenue and shall be used by the
11 municipality in the same manner as gross receipts tax revenue,
12 including payment of gross receipts tax revenue bonds.

13 C. For the purposes of this section, "business
14 locations attributable to the municipality" means business
15 locations:

- 16 (1) within the municipality;
- 17 (2) on land owned by the state, commonly known
18 as the "state fair grounds", within the exterior boundaries of
19 the municipality;
- 20 (3) outside the boundaries of the municipality
21 on land owned by the municipality; and
- 22 (4) on an Indian reservation or pueblo grant
23 in an area that is contiguous to the municipality and in which
24 the municipality performs services pursuant to a contract
25 between the municipality and the Indian tribe or Indian pueblo

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1 if:

2 (a) the contract describes an area in
3 which the municipality is required to perform services and
4 requires the municipality to perform services that are
5 substantially the same as the services the municipality
6 performs for itself; and

7 (b) the governing body of the
8 municipality has submitted a copy of the contract to the
9 secretary."

10 Section 2. A new section of the Tax Administration Act is
11 enacted to read:

12 "[NEW MATERIAL] DISTRIBUTION TO COUNTIES--OFFSET FOR
13 LICENSED HEALTH PRACTITIONER DEDUCTION.--

14 A. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to a county in an amount, subject to any
16 increase or decrease made pursuant to Section 7-1-6.15 NMSA
17 1978, equal to the sum of:

18 (1) the total deductions claimed pursuant to
19 Section 7-9-81.1 NMSA 1978 for the month by taxpayers from
20 business locations within a municipality in the county
21 multiplied by the combined rate of all county local option gross
22 receipts taxes in effect for the month that are imposed
23 throughout the county; and

24 (2) the total deductions claimed pursuant to
25 Section 7-9-81.1 NMSA 1978 for the month by taxpayers from

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1 business locations in the county but not within a municipality
2 multiplied by the combined rate of all county local option gross
3 receipts taxes in effect for the month that are imposed in the
4 county area not within a municipality.

5 B. The distribution pursuant to Subsection A of this
6 section is in lieu of revenue that would have been received by
7 the county but for the deduction provided by Sections 7-9-81.1
8 NMSA 1978. The distribution shall be considered gross receipts
9 tax revenue and shall be used by the county in the same manner
10 as gross receipts tax revenue, including payment of gross
11 receipts tax revenue bonds."

12 Section 3. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
13 Chapter 213, Section 27, as amended) is amended to read:

14 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

15 A. Beginning on September 15, 1989 and on September
16 15 of each year thereafter, the department shall distribute to
17 any county that has imposed or continued in effect during the
18 state's preceding fiscal year a county gross receipts tax
19 pursuant to ~~[the County Gross Receipts Tax Act]~~ Section 7-20E-9
20 NMSA 1978 an amount equal to:

21 (1) the product of a fraction, the numerator
22 of which is the county's population and the denominator of which
23 is the state's population, multiplied by the annual sum for the
24 county; less

25 (2) the net receipts received by the

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1 department during the report year, including any increase or
 2 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
 3 attributable to the county gross receipts tax at a rate of one-
 4 eighth percent; provided that for any month in the report year,
 5 if no county gross receipts tax was in effect in the county in
 6 the previous month, the net receipts, for the purposes of this
 7 section, for that county for that month shall be zero.

8 B. If the amount determined by the calculation in
 9 Subsection A of this section is zero or a negative number for a
 10 county, no distribution shall be made to that county.

11 C. As used in this section:

12 (1) "annual sum" means for each county the sum
 13 of the monthly amounts for those months in the report year
 14 ~~[which]~~ that follow a month in which the county had in effect a
 15 county gross receipts tax;

16 (2) "monthly amount" means an amount equal to
 17 the product of:

18 (a) the net receipts received by the
 19 department in the month attributable to the state gross receipts
 20 tax ~~[multiplied by]~~ plus five percent of the total amount of
 21 deductions claimed pursuant to Section 7-9-81.1 NMSA 1978 for
 22 the month; and

23 (b) a fraction, the numerator of which is
 24 one-eighth percent and the denominator of which is the tax rate
 25 imposed by Section 7-9-4 NMSA 1978 in effect on the last day of

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1 the previous month;

2 (3) "population" means the most recent
3 official census or estimate determined by the [~~bureau of the~~
4 United States census bureau for the unit or, if neither is
5 available, the most current estimated population for the unit
6 provided in writing by the bureau of business and economic
7 research at the university of New Mexico; and

8 (4) "report year" means the twelve-month
9 period ending on the July 31 immediately preceding the date upon
10 which a distribution pursuant to this section is required to be
11 made."

12 Section 4. A new section of the Gross Receipts and
13 Compensating Tax Act, Section 7-9-81.1 NMSA 1978, is enacted to
14 read:

15 "7-9-81.1. [NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--
16 CERTAIN RECEIPTS FROM SERVICES PROVIDED BY LICENSED HEALTH
17 PRACTITIONERS.--

18 A. Receipts from payments by managed health care
19 providers and health care insurers for the commercial portion of
20 contract services provided by a licensed health practitioner may
21 be deducted from gross receipts.

22 B. As used in this section:

23 (1) "commercial portion of contract services"
24 means services performed pursuant to a contract with a managed
25 health care provider or a health care insurer other than those

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1 provided for medicare patients pursuant to Title 18 of the
 2 federal Social Security Act or for medicaid patients pursuant to
 3 Title 19 or Title 21 of the federal Social Security Act;

4 (2) "health care insurer" means a person that:

5 (a) has a valid certificate of authority
 6 in good standing pursuant to the New Mexico Insurance Code to
 7 act as an insurer, health maintenance organization, nonprofit
 8 health care plan or prepaid dental plan; and

9 (b) contracts to reimburse licensed
 10 health care practitioners for providing basic health services to
 11 enrollees at negotiated fee rates;

12 (3) "licensed health practitioner" means:

13 (a) a chiropractic physician licensed
 14 pursuant to the provisions of the Chiropractic Physician
 15 Practice Act;

16 (b) a dentist or dental hygienist
 17 licensed pursuant to the provisions of the Dental Health Care
 18 Act;

19 (c) a physician or physician assistant
 20 licensed pursuant to the provisions of Chapter 61, Article 6
 21 NMSA 1978;

22 (d) an osteopathic physician licensed
 23 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
 24 or an osteopathic physician's assistant licensed pursuant to the
 25 provisions of the Osteopathic Physicians' Assistants Act;

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- 1 (e) a doctor of oriental medicine
2 licensed pursuant to the provisions of the Acupuncture and
3 Oriental Medicine Practice Act;
- 4 (f) a podiatrist licensed pursuant to the
5 provisions of the Podiatry Act;
- 6 (g) a psychologist licensed pursuant to
7 the provisions of the Professional Psychologist Act;
- 8 (h) a registered nurse or licensed
9 practical nurse licensed pursuant to the provisions of the
10 Nursing Practice Act;
- 11 (i) a registered lay midwife registered
12 by the department of health;
- 13 (j) a physical therapist licensed
14 pursuant to the provisions of the Physical Therapy Act;
- 15 (k) an optometrist licensed pursuant to
16 the provisions of the Optometry Act;
- 17 (l) a registered occupational therapist
18 licensed pursuant to the provisions of the Occupational Therapy
19 Act;
- 20 (m) a respiratory care practitioner
21 licensed pursuant to the provisions of the Respiratory Care Act;
- 22 (n) a clinical laboratory accredited
23 pursuant to 42 USCA 263a;
- 24 (o) a speech-language pathologist or
25 audiologist licensed pursuant to the Speech-Language Pathology,

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1 Audiology and Hearing Aid Dispensing Practices Act;

2 (p) a social worker licensed pursuant to
3 the provisions of the Social Work Practice Act; and

4 (q) a counselor or therapist licensed
5 pursuant to the Counseling and Therapy Practice Act; and

6 (4) "managed health care provider" means a
7 person that provides for the delivery of comprehensive basic
8 health care services and medically necessary services to
9 individuals enrolled in a plan through its own employed health
10 care providers or by contracting with selected or participating
11 health care providers. "Managed health care provider" includes
12 only those persons that provide comprehensive basic health care
13 services to enrollees on a contract basis, including the
14 following:

15 (a) health maintenance organizations;

16 (b) preferred provider organizations;

17 (c) individual practice associations;

18 (d) competitive medical plans;

19 (e) exclusive provider organizations;

20 (f) integrated delivery systems;

21 (g) independent physician-provider
22 organizations;

23 (h) physician hospital-provider
24 organizations; and

25 (i) managed care services organizations."

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